



# House of Representatives

## File No. 891

General Assembly

January Session, 2013

**(Reprint of File No. 219)**

House Bill No. 6477  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
June 1, 2013

### **AN ACT CONCERNING VARIOUS REVISIONS TO THE COMMON INTEREST OWNERSHIP ACT AND THE CONDOMINIUM ACT.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. Subsection (a) of section 20-456 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2013*):

4 (a) The commission may revoke, suspend or refuse to issue or renew  
5 any certificate of registration as a community association manager or  
6 place a registrant on probation or issue a letter of reprimand for: (1)  
7 Making any material misrepresentation; (2) making any false promise  
8 of a character likely to influence, persuade or induce; (3) failing, within  
9 a reasonable time, to account for or remit any moneys coming into his  
10 possession which belong to others; (4) conviction in a court of  
11 competent jurisdiction of this or any other state of forgery,  
12 embezzlement, obtaining money under false pretenses, larceny,  
13 extortion, conspiracy to defraud, or other like offense or offenses,  
14 provided suspension or revocation under this subdivision shall be

15 subject to the provisions of section 46a-80; (5) commingling funds of  
16 others in an escrow or trustee account; (6) commingling funds of  
17 different associations; (7) any act or conduct which constitutes  
18 dishonest, fraudulent or improper dealings; [or] (8) a knowing and  
19 material violation of any provision of chapter 825 or 828; or (9) a  
20 violation of any provision of sections 20-450 to 20-462, inclusive,  
21 including, but not limited to, failure to comply with the educational  
22 requirements prescribed in section 20-453, or any regulation adopted  
23 under section 20-461.

24 Sec. 2. Subdivision (5) of subsection (b) of section 47-250 of the  
25 general statutes is repealed and the following is substituted in lieu  
26 thereof (*Effective October 1, 2013*):

27 (5) Unless the meeting is included in a schedule given to the unit  
28 owners or the meeting is called to deal with an emergency, the  
29 secretary or other officer specified in the bylaws shall give notice of  
30 each executive board meeting to each board member and to the unit  
31 owners. The notice shall be given at least five days before the meeting  
32 and shall state the time, date, place and agenda of the meeting, except  
33 that notice of a meeting called to adopt, amend or repeal a rule shall be  
34 given in accordance with subsection (a) of section 47-261b. If notice of  
35 the meeting is included in a schedule given to the unit owners, the  
36 secretary or other officer specified in the bylaws shall make available  
37 an agenda for such meeting to each board member and to the unit  
38 owners not later than forty-eight hours prior to the meeting.

39 Sec. 3. Subsection (c) of section 47-252 of the general statutes is  
40 repealed and the following is substituted in lieu thereof (*Effective*  
41 *October 1, 2013*):

42 (c) Except as otherwise provided in the declaration or bylaws, the  
43 following requirements apply with respect to proxy voting:

44 (1) Votes allocated to a unit may be cast pursuant to a directed or  
45 undirected proxy duly executed by a unit owner;

46     (2) The association may provide a proxy form to any unit owner  
47     who seeks to vote pursuant to a directed or undirected proxy. If the  
48     association provides a proxy form, the proxy form, (A) shall include a  
49     blank space reserved for the insertion of the name of the proxy holder,  
50     and (B) may include the name of a person designated by the  
51     association to be the default proxy holder, who shall be authorized to  
52     exercise the proxy in the event the unit owner fails to otherwise specify  
53     the name of the proxy holder subject to the limitations set forth in this  
54     subsection;

55     ~~[(2)]~~ (3) If a unit is owned by more than one person, each owner of  
56     the unit may vote or register protest to the casting of votes by the other  
57     owners of the unit through a duly executed proxy;

58     ~~[(3)]~~ (4) A unit owner may revoke a proxy given pursuant to this  
59     section only by actual notice of revocation to the person presiding over  
60     a meeting of the association;

61     ~~[(4)]~~ (5) A proxy is void if it is not dated or purports to be revocable  
62     without notice;

63     ~~[(5)]~~ (6) A proxy terminates one year after its date, unless it specifies  
64     a shorter term; and

65     ~~[(6)]~~ (7) A person may not cast votes representing more than fifteen  
66     per cent of the votes in the association pursuant to undirected proxies.

67     Sec. 4. Subdivision (1) of subsection (a) of section 47-260 of the  
68     general statutes is repealed and the following is substituted in lieu  
69     thereof (*Effective October 1, 2013*):

70     (1) Detailed records of receipts and expenditures affecting the  
71     operation and administration of the association and other appropriate  
72     accounting records, including, but not limited to, records relating to  
73     reserve accounts, if any;

74     Sec. 5. Section 47-253 of the general statutes is amended by adding  
75     subsection (e) as follows (*Effective October 1, 2013*):

76 (NEW) (e) No member of the executive board or officer of the  
 77 association shall be subject to criminal liability for an alleged violation  
 78 of the Fire Safety Code, the State Building Code or a municipal health,  
 79 housing or safety code when, pursuant to subsection (b) of section 47-  
 80 261e, the executive board of an association proposes a special  
 81 assessment to cover the cost of the repairs necessary to ensure  
 82 compliance with the terms of such codes and the special assessment is  
 83 rejected by a vote of the unit owners.

84 Sec. 6. (NEW) (*Effective October 1, 2013*) No member of a board of  
 85 directors, as defined in section 47-68a of the general statutes, or officer,  
 86 as defined in section 47-68a of the general statutes, shall be subject to  
 87 criminal liability for an alleged violation of the Fire Safety Code, the  
 88 State Building Code or a municipal health, housing or safety code  
 89 when the board of directors of an association proposes a special  
 90 assessment to cover the cost of the repairs necessary to ensure  
 91 compliance with the terms of such codes and the special assessment is  
 92 rejected by a vote of the unit owners.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	20-456(a)
Sec. 2	<i>October 1, 2013</i>	47-250(b)(5)
Sec. 3	<i>October 1, 2013</i>	47-252(c)
Sec. 4	<i>October 1, 2013</i>	47-260(a)(1)
Sec. 5	<i>October 1, 2013</i>	47-253
Sec. 6	<i>October 1, 2013</i>	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill, which makes statutory changes affecting condominiums and other common interest communities, does not result in a fiscal impact as these are private entities.

House "A" (LCO 8245) struck the original bill and its underlying fiscal impact and resulted in the fiscal impact described above.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

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**OLR Bill Analysis****HB 6477 (as amended by House "A")\*****AN ACT CONCERNING THE STATUTORY LIEN FOR ASSESSMENTS ON A CONDOMINIUM UNIT.****SUMMARY:**

This bill makes several changes affecting condominiums and other common interest communities.

It provides that community association managers are subject to disciplinary action for knowing and material violations of the Common Interest Ownership Act (CIOA) or Condominium Act (§ 1) (see BACKGROUND).

The bill exempts board members or association officers under CIOA and the Condominium Act from criminal liability, under certain circumstances, for alleged violations of the state building or fire safety code or a municipal health, housing, or safety code. The criminal immunity applies when the board proposes a special assessment to cover the cost of repairs needed to ensure compliance with the codes and the unit owners vote to reject the assessment (§§ 5-6). (It appears that for communities governed by CIOA, the immunity only applies if the special assessment is proposed in accordance with the law's procedural requirements for such assessments).

CIOA generally allows executive boards to provide board members and unit owners a schedule of board meetings instead of providing specific notice in advance of each meeting. Under the bill, if the board provides unit owners with such a meeting schedule, the secretary or other officer specified in the bylaws must make an agenda available to board members and unit owners, no later than 48 hours before the meeting (§ 2).

CIOA currently sets certain conditions for proxy voting. The bill specifically allows associations to provide proxy forms to unit owners seeking to vote pursuant to a directed or undirected proxy. (A directed proxy specifies how the vote is to be cast, while an undirected proxy allows the person who is given the proxy to decide how to vote.) The proxy forms must include a blank space for the insertion of the proxy holder's name. The bill also allows the forms to include the name of a person the association designates to be the default proxy holder. Such a person is authorized to exercise the proxy if the unit owner does not specify the name of the proxy holder subject to the limitations set forth for proxy voting under CIOA and the bill (§ 3).

Under CIOA, associations must keep detailed records of receipts and expenditures affecting their operation and administration and other appropriate accounting records. The bill specifies that this includes records relating to any reserve accounts (§ 4).

EFFECTIVE DATE: October 1, 2013

\*House Amendment "A" replaces the underlying bill, which extended from six to 12 months the priority of common expense assessments over previously recorded mortgages under CIOA.

## **§ 1 – COMMUNITY ASSOCIATION MANAGERS**

By law, community association managers must register with the Department of Consumer Protection (DCP). The bill adds to the grounds upon which DCP's Real Estate Commission can take disciplinary actions against community association managers by allowing such actions due to knowing or material violations of any provision of CIOA or the Condominium Act.

By law, the disciplinary actions that the commission can take include (1) revoking, suspending, or refusing to issue or renew a community association manager's registration certificate; (2) placing a registrant on probation; or (3) issuing a letter of reprimand. The commission can revoke or suspend a registration certificate only after

notice and a hearing in accordance with the Uniform Administrative Procedure Act.

## **BACKGROUND**

### ***Common Interest Ownership Act (CIOA) and Condominium Act***

CIOA governs the creation, alteration, management, termination, and sale of condominiums and other common interest communities formed in Connecticut on and after January 1, 1984 (CGS § 47-200 et seq.). Certain CIOA provisions also apply to common interest communities created in Connecticut before January 1, 1984, but do not invalidate existing provisions of the communities' governing instruments. Common interest communities created before then can amend their governing instruments to conform to portions of CIOA that do not automatically apply (CGS §§ 47-214, -216, -218).

The Condominium Act (CGS §§ 47-68a to 47-90c) governs condominiums created from 1977 through 1983, except when CIOA applies.

### ***Related Bill***

sSB 1145 (File 842) contains provisions on similar topics. For example, it (1) exempts board members or officers under CIOA and the Condominium Act from criminal liability for any conduct they perform on the association's behalf, as long as the conduct is within the scope of their authority and (2) generally requires executive boards under CIOA to give board members and unit owners notice with specified information at least five days before each board meeting.

## **COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable

Yea 18      Nay 0      (03/14/2013)

Judiciary Committee

Joint Favorable



Yea 31 Nay 0 (05/29/2013)